

NCLT – KOCHI BENCH

Daily Orders – For reference purpose only

Date 8th March 2022

**Coram: Shri Anil Kumar B.
Hon'ble Member (Technical)**

**Shri Ashok Kumar Borah
Hon'ble Member (Judicial)**

1 IA(C/ACT)/17/KOB/2022

Shri Zibi Jose, learned counsel for the applicant as well as Shri Sukumar Nainan Oommen, learned counsel for R1, R5 & R6 appeared through VC.

Order pronounced. IA(C/ACT)/17/KOB/2022 stands disposed of vide separate Order.

2 IA(IBC)/46/KOB/2022

This IA has been filed under Section 44(2) of IBC by the Liquidator in the matter of Liquidation process of Sea Bird Sea Plane Pvt Ltd. Seeking extension of the liquidation period from 28.02.2022 to 30.6.2022.

The liquidator submitted that in the 1st to 5th E-Auctions during the period from 28.08.2020 to 20.09.2021 no bidders were available. In the 6th E-Auction conducted on 10.01.2022 two buyers participated and remitted 10% EMD. The E-Auction was concluded for Rs.3.10 crores. The last date to remit the full sale amount by the highest bidder is 10.04.2022. Letter of Intent dated 31.01.2022 was issued by the Liquidator to the highest bidder is on record.

On hearing the Liquidator and also on perusal of the records, we are of the considered view that the prayer of the Liquidator be allowed. **Hence liquidation period is extended upto 30.6.2022. The liquidator is directed to complete the Liquidation Process on or before 30.06.2022 positively.**

Accordingly, IA(IBC)/46/KOB/2022 stands allowed.

3 IA(IBC)/47/KOB/2022 IN TIBA/14/KOB/2019

This IA has been filed under Regulation 47A and 44(2) of the IBBI (Liquidation Process) Regulations, 2016 for exclusion and Extension of Liquidation period.

Shri Vinod PV, learned counsel for the Liquidator appeared through VC.

Vide Order dated 05.03.2021 the Corporate Debtor - India Techs Ltd. was put under liquidation under Section 33(1) of the IBC, 2016.

The learned counsel for the Liquidator submitted that during the process of sale, liquidator observed that attachment was reflecting in favour of HDFC Bank in the encumbrance certificate by virtue of the order dated 20.04.2015 passed by the DRT, Ernakulam No-1 in IA No.613 of 2015 in OA 9 of 2015. Since the attachment over the property will be an impediment for sale and for value maximisation, Liquidator filed an application before DRT on 25.10.2021 for lifting the attachment. However, the application was not listed due to non-availability of the Presiding Officer in the Debt Recovery Tribunal. In view of the urgency, the Liquidator moved an application OP(DRT)71/2022 before the Hon'ble High Court of Kerala on 24.01.2022 for lifting the attachment. The Hon'ble High Court passed an order on 09.02.2022 for lifting the attachment and issued direction to the village officer and Sub Registrar Office to remove the attachment from the revenue records. Therefore, since 25.10.2021 to 09.02.2022, Liquidator was pursuing the matter before the Courts for lifting the attachment and there was also a lock down of 40 days in Kerala in view of the second outbreak of Covid.

According to Shri Vinod, immediately after receipt of the Order from the High Court, the liquidator convened stake holders committee meeting and decided to put the property in auction in the first week of March. Hence this IA.

On hearing the Liquidator and also on perusal of the records, we are of the considered view that the prayer of the Liquidator be allowed. Accordingly, we issue the following Order:

- (i) The period of 40 days from 08.05.2021 to 18.06.2021 is hereby excluded from the Liquidation Process.
- (ii) An extension of 6 months from 11.04.2022 to 09.10.2022 is hereby granted to the Liquidator to complete the Liquidation Process.

IA(IBC)/47/KOB/2022 stands disposed of accordingly.

4 IA(C/ACT)/20/KOB/2022 in CP/128/KOB/2019

This IA has been filed under Rule 11 read with Rule 23A(1) of the NCLT Rules, 2016 by the Applicants / R5 & R6 seeking an order allowing them to purchase the shares of Rs.1000/- each from all willing shareholders of the Respondent Company at a price of Rs.27,090/- per share upon cancellation of shares held by respondents/ Petitioners 1 & 2 at a price of Rs.17,400/- per share upon cancellation of the 40 invalid equity shares held by R1 and 80- invalid equity shares held by R2.

Smt. Karthika K.J., learned counsel appeared for the applicants through VC.

List this IA along with the related IAs on 21.03.2022 for admission.

5 CP/43/KOB/2020

Shri Shinu J. Pillai, learned counsel for the Petitioner as well as Shri Ameerul Millath, learned counsel for R1 & R2 appeared through VC.

It appears from records that the Petitioner has filed additional documents along with his rejoinder. During the hearing today, Shri Shinu J Pillai submitted that he may be permitted to file an IA to accept those additional documents. He may do so within a week, serving hard copy to the learned counsel for the respondent, who may file reply statement, if any, within two weeks thereafter.

List on 06.04.2022 for hearing - High on Board.

6 IA(IBC)/40/KOB/2022 in IA/160/KOB/2020 in TIBA/08/KOB/2019

This IA has been filed under Regulation 33(2) of the IBBI (Liquidation Process) Regulations, 2016 by the Liquidator seeking approval of the private sale and disposal of Annexure I assets of the Corporate Debtor to the highest quoted person through private sale.

Learned liquidator Shri Aravindakshan Nair appeared through VC along with his counsel Shri Cyriac Tom.

The liquidator submitted that the sale and disposal of the Annexure I assets have become imperative due to continuous deterioration from 2006. No suitable buyers came forth even after conducting 4 rounds of E auctions and that too the final round being with a reduced value.

On hearing the Liquidator and also on perusal of the records, we are of the considered view that the prayer of the Liquidator be allowed. Accordingly, the Liquidator is permitted to dispose of the Annexure I assets of the Corporate Debtor to the highest quoted person through private sale.

IA(IBC)/40/KOB/2022 stands disposed of accordingly.

6 IA(IBC)/45/KOB/2022

This IA has been filed by the Liquidator with the prayer to accept the documents marked as Annexure 1 to Annexure 7 as additional documents in IA(IBC)/40/KOB/2022.

Learned liquidator Shri Aravindakshan Nair appeared through VC along with his counsel Shri Cyriac Tom.

The additional documents filed by the Liquidator are accepted. Registry is directed to place these additional documents in IA(IBC)/40/KOB/2022 in IA/160/KOB/2020 in TIBA/08/KOB/2019.

IA(IBC)/45/KOB/2022 stands disposed of.

7 IA(IBC)/187/KOB/2021

IA(IBC)/187/KOB/2021 IN IBA/13/KOB/2020

This IA has been filed under Section 65(1) of the IBC, 2016 by the Resolution Professional seeking the following prayers:

- (i) *Direct the respondent to deposit Rs.4,43,377/- forthwith to the account of the RP maintained for the purpose of CIRP towards contribution towards its share of CIRP Cost;*
- (ii) *If the respondent failed to deposit Rs.4,43,377/- to the account of the RP, impose a maximum penalty of Rs.1 crore to the respondent for initiating insolvency resolution process with malicious intends under Section 60(1) of the IBC, 2016 in addition to CIRP Cost.*

Shri K. Parameswaran Nair, Learned IRP appeared in person through VC along with his counsel Shri Vinod PV. Smt Jayanthi K. Shah appeared through VC for the Respondent/Operational Creditor.

Smt Jayanthi K. Shah stated that the OC has already deposited Rs. One lakh in the account of the IRP and sought one more weeks' time to deposit the balance amount.

The Resolution Professional submitted that the OC has taken many adjournments and hence prayed to give direction to the OC to pay the balance amount positively within a week.

Submissions of both the parties are recorded.

The Respondent/Operational Creditor is directed to pay the balance amount of Rs.3,43,377/- to the account of the RP on or before 16.03.2022, making it clear that no further time will be granted for this purpose.

List on 16.03.2022 for hearing.

7 IA(IBC)/196/KOB/2021 IN IBA/13/KOB/2020

This IA has been filed under Section 66 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 by the Applicant/Resolution Professional alleging fraudulent transactions by the respondents and hence seeking certain directions against R1 to R5.

Shri K. Parameswaran Nair, learned RP appeared through VC along with his counsel Shri Vinod PV. Shri T.M.Abdul Latiff, learned counsel for R1-R5 and Shri Subramanian (Respondent No R6) also appeared through VC.

Vide today's proceedings in **IA(IBC)/22/KOB/2022**, the RP is allowed to amend IA(IBC)/196/KOB/2021 and file amended copies before this Tribunal serving the amended copy to the respondents within one week. The Respondents are directed

to file their reply statement against the amended IA(IBC)/196/KOB/2021 within one week thereafter.

List on 31.03.2022 for hearing.

7 IA(IBC)/22/KOB/2022 IN IA(IBC)/196/KOB/2021

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Resolution Professional for amendment of IA(IBC)/196/KOB/2021 in IBA/13/KOB/2020

Shri K. Parameswaran Nair, learned RP appeared through VC along with his counsel Shri Vinod PV. Shri T.M.Abdul Latiff, learned counsel for R1-R5 and Shri Subramanian (Respondent No.6), also appeared through VC.

Shri T.M.Abdul Latiff has not raised any objection in allowing this IA.

This IA is allowed. The RP is directed to file amended copies of IA (IBC) 196/KOB/2021 serving amended copy to the respondents within one week.

IA(IBC)/22/KOB/2022 IN IA(IBC)/196/KOB/2021 stands allowed.

8 CP(IB)/34/KOB/2021

Learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

Vide Order dated 19.01.2022 Paper Publication was ordered in this case and the FC has filed the proof of publication, but none appeared for the Corporate Debtor.

In the last date of hearing on 14.02.2022, Adv Shri Girish Kumar appeared for the CD and stated that Vakalat has already been filed for the Corporate Debtor by his senior Adv Shri Peer Mohammed. But Registry reported that no vakalat has been filed till date for the Corporate Debtor.

Therefore, the Corporate Debtor is hereby set ex-parte.

Heard the submissions of the learned counsel for the FC.

Hearing concluded. Orders reserved.

9 CP/22/KOB/2020

Shri Aditya Venugopalan, learned counsel for the Petitioners as well as Smt. Manjulla Devi, learned counsel for R2 and Shri Nikhil Narayanan, learned counsel for R3 & R4 appeared through VC.

It appears that there are some audio glitches in the network connection of Shri Aditya Venugopalan. **Hence, adjourned to 24.03.2022 for hearing.**

10 CP/39/KOB/2020

Shri Jerin Asher Sojan, learned counsel for the Petitioner as well as Shri Navod Prasannan, learned counsel for the R2 and Shri K.V.Krishnakumar, learned counsel for R3 appeared through VC. Both sides are agreeable for winding up of the company.

Heard both sides.

Hearing concluded. Orders reserved.

11 CP/53/KOB/2020

Shri Sandeep Kumar and Smt. Merin Thalith appeared for the Petitioners through VC. Shri Vivek Kumar, learned PCS for R1 to R3 appeared through VC.

Heard both sides. Both sides suggested that this Tribunal may appoint a mediator to sort out the issue involved in this matter.

Interim Order passed vide separate sheets.

List the CP on 28.04.2022 for hearing.

11 IA(C/ACT)/5/KOB/2022 in CP/53/KOB/2020

This IA has been filed under Sections 241/242 of the Companies Act, 2013 read with Rules 11, 32 and 43 of the NCLT Rules, 2016 by the Applicant/R1 seeking direction to produce the Original Annexure P2 document submitted along with the Rejoinder and order for forensic examination of the same by Central Forensic Science Laboratory or any other competent authority.

Learned counsel for the applicant Shri Vivek Kumar as well as learned counsel for the respondent Smt. Merin Thaliath appeared through VC.

Reply filed by the Respondent is on record.

This IA will be heard at the time of hearing of the main CP.

List on 28.04.2022 for hearing.

11 IA(C/ACT)/6/KOB/2022 in CP/53/KOB/2020

This IA has been filed under Sections 241/242 of the Companies Act, 2013 read with Rules 11, 32 and 55 of the NCLT Rules, 2016 by the Applicants/R1 & R2 with the prayer to take on record the additional documents produced along with the IA as part of the Company Petition.

Shri Vivek Kumar, learned counsel for the applicant as well as Shri Sandeep Kumar along with Smt. Merin Thaliath learned counsel for the respondent appeared through VC.

Reply filed by the respondent is on record. The Petitioners/Respondents in this IA strongly opposed the acceptance of any of the documents at this belated stage. After hearing the parties, we are of the considered opinion, that the documents attached with this IA are not at all necessary for disposal of the Company Petition, mainly because the Financial Statements produced in this IA have not been signed properly by the concerned parties and the other documents are irrelevant documents.

Hence **IA(C/ACT)/6/KOB/2022 in CP/53/KOB/2020 stands dismissed.**

12 CP/35/KOB/2021

This Company Petition is filed under Section 340 read with Section 246 of the Companies Act, 2013 by the Petitioner Shri PM. Johny against the respondents Shri K.J. Paul and 3 others alleging loss or damage to the R4 Company to the tune of Rs.50,01,49,418/- by the mismanagement of respondents.

Smt. Amrutha Vidyadharan, learned counsel for the Petitioner as well as Senior counsel Shri Joseph Kodianthara for R1 appeared through VC.

Pleadings are complete.

Smt. Amrutha Vidyadharan sought an adjournment to enable her senior Shri Mohan Pulickkal to argue the case. Prayer allowed.

List on 18.04.2022 for hearing.

Both the parties may submit their written submissions in brief (limiting 3-4 pages) at least 3 days before the date fixed.

12 COMP.APPLN/106/KOB/2021 IN CP/35/KOB/2021

This CA has been filed by the applicants (R1 to R3 in the CP) against the Respondents (Petitioner and R4 in the CP) with the prayer to dismiss CP/35/KOB/2021 as not maintainable.

Learned senior counsel Shri Joseph Kodianthara appeared through VC for the applicants.

Smt. Amrudha Vidyadharan, who appeared for R1, sought an adjournment to enable her senior to argue the case stating that her senior's mother is seriously ill. **At her request, the case is adjourned to 18.04.2022 for hearing.**